

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION

VICTOR BROOKS,)
Plaintiff,) No. 08 CV 2417
v.) Judge Zagel
LISA MADIGAN, Illinois Attorney)
General, *et al.*)
Defendants.)

DEFENDANTS' RULE 12(b)(1) and (6) MOTION TO DISMISS

NOW COME Illinois Attorney General LISA MADIGAN, in her personal and official capacities as Attorney General of the State of Illinois, JOSEPH PONSETTO, personally and in his official capacity as an Assistant Illinois Attorney General, EDWARD C. CARTER, III, personally and in his official capacity as an Assistant Attorney General, JORGE L. MONTES, personally and in his official capacity as a Member of the Illinois Prisoner Review Board, NORMAN A. SULA personally and in his capacity as an employee of the Illinois Prisoner Review Board, and KENNETH D. TUPY, personally and in his capacity as an employee of the Prisoner Review Board (“Defendants”), by their attorney, LISA MADIGAN, Attorney General of the State of Illinois, and respectfully submit their motion to dismiss pursuant to 12(b)(1) and (6). In support thereof, the Defendants state as follows:

1. Plaintiff's Complaint, originally filed in the Circuit Court of Cook County, alleges numerous claims against numerous Defendants. *See* Compl. Plaintiff does not, however, organize these claims into particular counts or even specify which claims are directed at each Defendant. *See, e.g.*, Compl. at 2-4 (organizing Complaint into

“Parties” and “Facts”); *id.* at ¶14 (“On or after December 17, 2002, at least one but not all of, the Defendants initiated a criminal investigation against Plaintiff.”)

2. One could interpret Plaintiff’s Complaint to consist of the following counts: a federal or state claim for Malicious Prosecution under § 1983, a federal claim for violation of the Equal Protection Clause, and state law claims for Defamation and Intentional Infliction of Emotional Distress.
3. To the extent Plaintiff intended on pleading these counts, the Defendants respectfully move under R. 12 (b)(1) to dismiss the Complaint for lack of subject matter jurisdiction and other immunities.
4. The Defendants also respectfully move to dismiss the Complaint for failure to state a claim under R. 12 (b)(6).
5. The Defendants will file concurrently a memorandum of law in support of this motion.

Respectfully submitted,

June 2, 2008

LISA MADIGAN
Attorney General of Illinois

/s/ Mark Bina
MARK BINA
KATHLEEN FORD
ALLAN ABINOJA
RONALD A. RASCIA
Assistant Attorneys General
100 West Randolph Street
Chicago, Illinois 60601
(312) 814-3000

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of this brief was served upon all parties of record this 2nd day of June, 2008 by electronic filing pursuant to Rule XI of the General Order On Electronic Case Filing.

/s/ Mark Bina